

### III. REMARKS

#### **Format of this Response**

This response is submitted in compliance with the revised format for making amendments to the specification, claims and drawings officially adopted by the USPTO on July 30, 2003, and which is now reflected in 37 C.F.R. §1.121.

If a substitute specification is submitted herein, a clean form and marked-up version are included. Amendments to drawings, if any, are submitted in compliance with 37 C.F.R. §1.84 on replacement sheets as an attachment to this document (with an accompanying detailed explanation of all of the changes with respect to the drawings made in the remarks section of this amendment).

#### **Status of Claims :**

**Amendments of the claims 1-8, 10-17, 19, 21, 23-33, and 35-37, are presented herein. Thus, claims 1-39 are pending. No new matter has been introduced with this amendment, which is fully supported by the instant Specification.**

#### **Statement with Respect to Scope of Amended and Non-Amended Claims**

Revisions to the claim set is made in order to streamline prosecution of this case in order to obtain early allowance of embodiments that are presently anticipated to be of commercial significance and in response to the Examiner's restriction requirement which has been made final in the Office Action, and are not made for a purpose of patentability. Any amendment, cancellation, withdrawal or addition made herein with respect to the claims should not be construed in any manner as indicating Applicant's surrender of any subject matter of the application, or surrender of any equivalent to any element asserted in one or more claims. Any narrowing which may be evinced with respect to subject matter covered by the claims as a

whole, or by one or more claims of the appended claims whether amended, re-represented, or new, when compared to claims previously in the application, should not be interpreted as indicating that the Applicant has generally disclaimed the territory between the original claimed subject matter and the amended claimed subject matter. Amended claims elements are to be construed to include substantial equivalents known to those of ordinary skill in the art. Applicant asserts that any amendments transacted herein are made without prejudice and reserve all rights to prosecute any canceled claims, and claim structures preceding any amendment to a particular claim, and other disclosed (but not presently claimed) embodiments in the application, in future continuation applications, divisional applications, continuation-in-part applications, continuing prosecution applications, requests for continuing examination, re-examination applications and any other application claiming priority to the present application.

### **Rejection under 35 USC 112, Second Paragraph**

#### **Examiner's Position:**

Claim 2 recites the limitation “the contour or silhouette” in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation “the face/head” in paragraph 1 “the pupils” in paragraph 2 and “the outline” in paragraph 2. There is insufficient antecedent basis for this limitation in the claim. Examiner suggests amending to read “a face/head” “pupils” and “an out line” or changing the word silhouette to outline.

#### **Applicant's Response:**

Claim 5 has been amended in accordance with the Examiner's suggestions and are believed conformant with the cited statute. In view of the cancellation of claim 2 its rejection is deemed moot.

***Claim Rejections -35 USC § 102***

Claims 1-4, 6-9, 11-12, 15-16, 18, 21-22, 24-25, 27 and 29-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Parvulescu (US 6,687,497).

The Examiner alleges that the cited '497 reference discloses a method for preventing handheld wireless communication in a vehicle by an operator of said vehicle, said method comprising the steps of determining whether the velocity of the vehicle exceeds zero velocity (in any direction); and restricting the operator's use of a handheld wireless communication device if the velocity of the vehicle is greater than zero unless a pre-defined exceptional condition exists. (Col. 4 lines 9-43).

Applicant disagrees. On the contrary, the cited '497 reference neither discloses nor suggests the presently claimed invention. Applicant respectfully traverses the Examiner's 35 U.S.C. § 102(e) rejections of the claims 1, 15, and 27, as presently amended, in part on the basis that the reference recited does not disclose each of the elements of any of the pending claims. Applicant respectfully finds no correspondence in the cited reference for a method of monitoring the operator of the vehicle as to whether a communications device is improperly used for a certain time during which the vehicle attains a speed greater than zero unless a predefined condition exists permitting the use of the device. The cited '497 reference is in fact completely silent on communication of a lapse of time. Applicant therefore believes the invention free of the cited method and requests allowance of the claimed subject matter. Claims 2-4, 6-9, 11-12, 16, 18, 21-22, 24-25, and 29-32 are also deemed allowable in as much as they are depend from allowable base claims.

Claims 1, 10, 13-15, 18-22 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Chua et al (US 6,690,956). Applicant respectfully traverses the Examiner's 35 U.S.C. § 102(e) rejections of the claims 1, 15, and 27, as presently amended, in part on the basis that the reference recited does not disclose each of the elements of any of the pending claims. Applicant respectfully finds no correspondence in the cited reference for a method of monitoring the operator of the vehicle as to whether a communications device is improperly used for a certain time during which the vehicle attains a speed greater than zero unless a predefined condition exists permitting the use of the device. The Examiner alleges that Chua discloses a method for preventing handheld wireless communication in a vehicle by an operator of said vehicle, said method comprising the steps of determining whether the velocity of the vehicle exceeds zero velocity (in any direction); and restricting the operator 's use of a handheld wireless

communication device if the velocity of the vehicle is greater than zero unless a pre-defined exceptional condition exists. Applicant respectfully disagrees. On the contrary, the cited '956 reference does not even suggest the presently claimed subject matter as amended.

Regarding claim 15, the Examiner alleges that Chua discloses a method for prevention of use by the operator of a moving vehicle a handheld wireless communication device, said method comprising the steps of receiving by the handheld wireless communication device, when it is turned on, a control signal for restricting the use of the handheld wireless communication device; restricting the operation of the handheld wireless communication device in accordance with the control signal. As discussed above, Applicant respectfully asserts that the cited '956 reference is silent as to ascertaining use and duration of use of the handheld wireless communication device before restricting the operation of the device.

Regarding claim 1, 10, 13-14, 18-22 and 26, the amended and unamended claims being dependent from allowable base claims 1 and 15, are therefore deemed also allowable.

Claims 5, 17 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parvulescu in view of Winkler. Applicant traverses the rejection of obviousness since the cited references taken singly or combined neither disclose nor suggest the presently claimed subject matter. The primary reference as discussed is silent on any method according to claim 1, 15, or 27 from which claims 5, 17, and 28 depend. Similarly, the secondary reference to Winkler does not even suggest indicating any length of time or duration of prohibited use of the handheld wireless communication device by the operator of a vehicle at greater than zero speed.

Claim 23 is rejected under 35 U. S. C. 103(a) as obvious over Chua in view of Winkler. In view of the amendment of base claim 15, Applicant asserts that dependent claim 23 is also allowable.

Claim 33 is rejected under 35 U.S.C. 103(a) as obvious over Parvulescu in view of Trauner (US 2002/0070852). In view of the amendment of base claim 27, Applicant asserts that dependent claim 33 is also allowable.

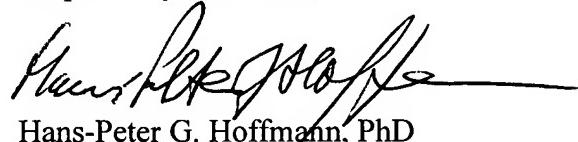
***Allowable Subject Matter***

Applicant acknowledges the Examiner's holding Claims 34-39 allowable over the cited art. Claims 35-37, dependent from original base Claim 33, have been amended to define the invention more fully in its scope, without adding new matter. Applicant requests favorable reconsideration of the claims.

## **CONCLUSION**

The foregoing good faith amendment is believed to place the application in condition for allowance; and an early notification thereof is respectfully requested.

Respectfully submitted,



Dated: October 24, 2005.

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